

Before the
Federal Communications Commission
Washington, D.C. 20554

G.C. Docket No. 93-153

In the Matter of
Amendment of the Commission's
Rules to Implement Section 4(g)(3)
of the Communications Act of 1934,
as Amended, 47 U.S.C. § 154(g)(3),
the Commission's Statutory Gift
Acceptance Authority.

REPORT AND ORDER

Adopted: June 24, 1994;

Released: July 22, 1994

By the Commission:

I. INTRODUCTION

1. In this *Report and Order*, the Commission adopts rules to implement new section 4(g)(3) of the Communications Act, 47 U.S.C. § 154(g)(3), which gives the Commission authority to accept unconditional gifts, donations and bequests. Specifically, section 4(g)(3) authorizes the Commission, in furtherance of its functions, "to accept, hold, administer, and use unconditional gifts, donations, and bequests of real, personal, and other property (including voluntary and uncompensated services, as authorized by section 3109 of Title 5, United States Code). See 47 U.S.C. § 154(g)(3)(A). Congress stipulated, however, that the Commission's regulations implementing its section 4(g)(3) authority must "include provisions to preclude the acceptance of any gift, bequest or donation that would create a conflict of interest or the appearance of a conflict of interest." See 47 U.S.C. § 154(g)(3)(D).

II. BACKGROUND

2. As detailed in our *Notice of Proposed Rulemaking (NPRM)*, 8 FCC Rcd. 4154 (1993), in order to implement the conflict of interest restriction described above, we sought guidance from the policies of other Federal agen-

cies, the provisions of the new Office of Government Ethics' (OGE's) government-wide standards of employee conduct,¹ and General Services Administration (GSA) regulations implementing agency acceptance of travel reimbursement.² Apart from new section 4(g)(3), we found no other agency gift acceptance statute which contains conflict of interest limitations.³ We did, however, discover that several of the Federal entities with gift and bequest authority (e.g., the Department of the Treasury (Treasury) and the Department of Health and Human Services (HHS)) have themselves imposed conflict of interest restrictions on, or developed general policies relating to, such authority. We incorporate herein by reference our discussion of these policies and provisions and the purpose and function of conflict of interest regulations as found in sections II, III and IV of our *NPRM*.

3. Members of the public were invited to comment on the specific proposals set forth in section IV of our *NPRM*, as well as to submit other proposals. Comments were received from the following entities: 1) AMSC Subsidiary Corporation (AMSC); 2) American Radio Relay League, Inc. (ARRL); 3) Association of Federal Communications Consulting Engineers (AFCCCE); 4) Community Broadcasters Association (CBA); 5) National Association of Shortwave Broadcasters (NASB) and 6) United States Telephone Association (USTA). No reply comments were received.

III. DISCUSSION

A. Decision Regarding Alternative Proposals

4. In our *NPRM*, we sought comment on two alternative proposals that could be used to satisfy the statutory conflict of interest requirement. One possible approach was suggested in a letter from four members of the Senate Committee on Commerce, Science and Transportation; namely, that we implement section 4(g)(3) by precluding altogether gifts made by Commission regulatees or other persons who have an interest in the outcome of Commission decisions.⁴ We noted in our *NPRM*, however, that this approach seemed inconsistent with the fundamental purpose of section 4(g)(3) to serve as a revenue enhancing measure.⁵ Therefore, we also sought comment on various alternative approaches that would allow the agency access to needed resources, and which are more flexible than imposing an absolute bar on the Commission's receipt of gifts from regulated entities.

5. None of the parties who filed comments in this proceeding endorsed an absolute bar. And, as discussed in our *NPRM*, we continue to believe that imposing an absolute ban would exclude a vast number of potential donors,

¹ As explained in our *NPRM*, because the OGE standards expressly do not govern matters that are authorized by agency gift acceptance statutes or regulations promulgated thereunder, the OGE rules governing gifts to individual employees do not apply to any gifts to the Commission that are accepted under section 4(g)(3) authority. 8 FCC Rcd. 4154, 4156, para. 11 (1993).

² Our *NPRM* emphasized that GSA's regulations are especially relevant to any conflict of interest standards we might develop because GSA's rules appear to be the principal government standards applicable to an agency's, rather than an individual employee's, acceptance of benefits. *Id.* at para. 13.^r

³ *Id.* at para. 3. As noted in our *NPRM*, at the same time Congress enacted section 4(g)(3), it enacted a provision prohibit-

ing the Commerce Department from soliciting gifts for the National Telecommunications and Information Administration (NTIA), where such solicitation would create a conflict of interest or the appearance thereof. As we pointed out in our *NPRM*, NTIA's conflict of interest provision only applies to circumstances in which gifts are solicited. *Id.* at n.2

⁴ See Letter of October 9, 1992 to then Chairman Sikes from Senators Danforth, Stevens, Inouye and Gorton, United States Senate Committee on Commerce, Science and Transportation.

⁵ See 138 Cong. Rec. H11732 (daily ed. October 5, 1992) (remarks of Rep. Rinaldo) (FCC's gift authorization is intended to assist the Commission in meeting "its increasing regulatory responsibilities given current budget constraints . . .").

particularly regulated entities, who may be the most likely donors of equipment or other services that would be useful to the Commission in achieving more efficient performance of its regulatory functions. In this regard, in our *NPRM*, we compared the General Services Administration's (GSA's) regulations implementing section 1353, the statute which authorizes gifts of travel reimbursement. We noted that GSA refused to impose a flat ban on travel payments made by regulated sources, concluding that such an approach would be an "unreasonable regulatory limitation" in view of section 1353's clear intent to permit agencies with tight travel budgets to benefit from travel payments donated from outside sources. According to GSA, the groups most likely to pay travel expenses in order to hear a government speaker would be those whose activities are affected by the agency's programs. 8 FCC Rcd. at 4185. Similarly, commenters point out here that regulated groups are the entities most likely to provide the technical and other assistance to the Commission. In support of this position, AFCCE also notes that the engineering assistance it seeks to provide to the Commission benefits the telecommunications industry in general, not just the association or individual equipment manufacturers.⁹ Furthermore, because regulated entities are often the only source for prototype equipment that should be tested prior to the development of technical standards or other applicable regulations, we also believe the imposition of less restrictive gift acceptance regulations could significantly assist in the timely introduction of new technologies into the marketplace.

6. In addition, as discussed in our *NPRM*,⁷ gifts to agencies do not necessarily involve the same type or degree of conflicts or appearance concerns as those of personal gifts made to employees with decisionmaking responsibility -- the focus of most traditional conflict of interest regulations, such as the OGE standards of employee conduct. We therefore concluded that, in the context of agency gift acceptance, more flexible approaches could be used. Commenters agreed with the conclusion reached in our *NPRM* that less restrictive policies can be formulated which adequately address conflict of interest concerns. Accordingly, we have decided to reject an absolute bar and to construe section 4(g)(3) in a flexible manner that will better achieve its statutory objective and promote the performance of the Commission's regulatory functions. The more flexible rules adopted here are discussed in detail below.

B. Description of New Rules

7. The regulations adopted in this *Order*⁸ contain certain structural safeguards and absolute prohibitions designed to avoid both conflicts of interest and appearance concerns. In addition, the regulations impose mandatory factors that authorized agency ethics officials must consider in determining whether conflicts or appearances problems exist. Finally, the regulations contain public disclosure and re-

porting requirements that are intended to minimize or eliminate appearances problems. We believe that these mechanisms work together effectively to eliminate the conflicts of interest and appearances concerns.

8. As our *NPRM* observed, section 4(g)(3) itself contains a "built in" restriction that is intended to preclude one of the most fundamental concerns addressed in other conflict of interest statutes -- the concern that Federal employees might accept gifts in return for the performance or non-performance of official duties. Unlike some agency gift acceptance statutes, section 4(g)(3) expressly limits the Commission's gift acceptance authority to gifts that are "unconditional," and thus effectively precludes gifts that are made contingent on official action. As noted in our *NPRM*, we believe the limitation is critical to ensure that the section 4(g)(3) prohibition on conditional gifts is carefully and scrupulously observed and to guard against any potential that official action could be influenced by gifts. In order to verify that the donor's gift is made without condition, our regulations impose specific requirements on the donor, which are discussed in detail below.

1. Structural Rules and Prohibitions

a. Permissible Points of Agency Contact

9. In our *NPRM*, we stated that one important tool in avoiding conflicts of interests and appearance issues might be to insulate agency officials with programmatic responsibilities, to the extent possible, from involvement in determinations regarding gift acceptance, as well as from discussions with potential donors regarding gifts. Therefore, similar to the policies of the Department of Treasury, our regulations will require agency employees who receive gift overtures from potential donors to refer all such matters immediately to the Commission's designated agency ethics official (DAEO), who will, as appropriate, consult with other agency ethics officials. Potential donors are also directed to contact the DAEO directly rather than contacting agency employees. In endorsing this approach, USTA agrees that "no gift could be directed toward a specific agency official or employee with direct regulatory or policy-making authority and no agency official or employee with direct regulatory or policymaking authority would have the responsibility of determining whether or not to accept such a gift."⁹ Under the new regulations, the DAEO may advise the donor of the availability of a gift fund, the types of equipment, property, or services that may be of use to the Commission, and the proper procedures for effectuating gifts.¹⁰

b. Ban on Solicitation/Cash Gifts

10. As specified in part IV of our *NPRM*, we agree with the view expressed in HHS' policies that an agency's solicitation of gifts from entities whose interests are affected by such agency's programs raises the greatest potential for concern with regard to possible conflicts of interest. We are

⁹ Comments of AFCCE at 2.

⁷ 8 FCC Rcd. at 4158, para. 27, 1.

⁸ The regulations are comprised of five separate sections. The first section sets forth the purpose and the scope of the regulations. The second provision defines key terms which track the definitions found in the OGE standards of conduct. The remaining sections incorporate the three classes of regulatory mechanisms outlined in section IV of our *NPRM*.

⁹ Comments of USTA at 2.

¹⁰ In performance of this function, the DAEO would serve as a buffer between the donor and the Commission's operating bureaus. Agency ethics officials would, of course, be permitted to obtain information from the Commission's bureaus and offices about the types of equipment, property and services that generally may be of use to the Commission.

therefore imposing two restrictions which are fully supported by USTA. First, the regulations contain an absolute bar on Commission solicitation of gifts from regulated entities and others identified as prohibited sources under the new OGE standards of conduct. Second, to ensure that there is no potential for abuse, the regulations prohibit the acceptance of cash gifts and require that all monetary gifts be made check.

c. Food, Drink and Travel Reimbursement

11. We also agree, as expressed in our *NPRM*, with the policies of other agencies that conflicts of interest and appearance problems may be greatest when gifts made to the agency appear to enure more to the personal benefit of employees. Although commenters did not address whether certain types of gifts should be prohibited altogether, to avoid this problem the regulations preclude the Commission's acceptance of food and drink under section 4(g)(3). Such gifts are commonly associated with Commission employees' attendance at conventions, meetings and other widely-attended events. Acceptance of these types of gifts will continue to be governed by the OGE standards of employee conduct, which provide for the employee's acceptance of such gifts, or pursuant to other independent authority.¹¹

12. In addition, the regulations direct that Commission employees will not accept under section 4(g)(3) gifts of travel expenses for attendance at meetings that are governed by the GSA regulations implementing 31 U.S.C. § 1353, the government-wide travel reimbursement statute.¹² This rule is necessary because the GSA rules implementing section 1353 prohibit agencies from using general gift acceptance statutes to accept travel reimbursement for attendance at meetings that are covered by that section.

13. As we noted in the *NPRM*, however, GSA's rules implementing section 1353 specify that section 1353 does not govern the acceptance of travel and related expenses for attendance at, or participation in, meetings or events that are required to carry out an agency's statutory or regulatory functions.¹³ Thus, because these sorts of meetings are outside the purview of section 1353's coverage, agencies are not precluded from accepting travel reimbursement for them using the authority of general gift acceptance statutes. In this regard, two commenters, AMSC and NASB, supported use of section 4(g)(3) to permit the

Commission's acceptance of unsolicited contributions from Commission licensees in order "to defray the cost of participation in international frequency coordination activities."¹⁴ AMSC stressed that the Commission's rules should be consistent with accepting "revenue enhancement from entities whose interests are aligned with those of the Commission."¹⁵ While observing that the Commission has put tremendous resources into international satellite coordination meetings in the past, NASB expressed concern "that limited Commission resources could make it increasingly difficult for the Commission to continue the same level of effort in the future."¹⁶

14. We agree with these commenters that, because there are substantial public interest benefits to be gained, the Commission should permit travel reimbursement for attendance at, or participation in, government-sponsored meetings or events such as international coordination activities provided for by treaty. Therefore, to the extent that such meetings are deemed outside the scope of section 1353's coverage (because the meetings are required in order to carry out regulatory functions), we shall permit the acceptance of travel reimbursement for them under section 4(g)(3).¹⁷

2. Mandatory Factors in Evaluating Conflicts of Interest

15. As proposed in our *NPRM* and supported by USTA,¹⁸ the regulations require that where gifts are offered by regulated entities and similar sources, agency ethics officials with authority to accept the gift must undertake a careful analysis to determine whether the gift's acceptance reflects unfavorably on the Commission's ability to carry out its responsibilities in a fair and impartial manner. The factors required to be considered in such an analysis are discussed below.¹⁹

a. Benefits to Individual Employees/Employee's Role in Pending Matters Affecting the Donor

16. We noted in the *NPRM* that conflicts of interest and appearance concerns are accentuated when the gift in question enures to the benefit of an employee personally and not just to the agency. Because of the possibility that some gifts offered pursuant to section 4(g)(3) might also provide tangible benefits to employees, the rules provide that officials making conflicts of interests determinations must evaluate at the outset the extent to which benefits of the

¹¹ See, e.g., 5 C.F.R. § 2635.204(g)(4), providing for employees' acceptance of food and refreshments at widely attended gatherings of mutual interest to a number of parties.

¹² At the time our *NPRM* was issued, the Commission relied on section 4(g)(2) of the Communications Act, rather than 31 U.S.C. § 1353, as authority for the acceptance of travel reimbursement from non-Federal sources. In an October 4, 1993 letter to Stephen D. Potts, Director of the Office of Government Ethics, the Commission adopted a recommendation by OGE that the Commission should accept reimbursement for travel from non-Federal sources under 31 U.S.C. § 1353, as implemented by 41 C.F.R. part 304-1, rather than section 4(g)(2) of the Communications Act. In any event, we note that the *NPRM*'s proposal to accept travel reimbursement under section 4(g)(3) for activities that are required to carry out statutory responsibilities, which is discussed in paras. 13-14, *infra*, was grounded on an analysis of section 1353, which we applied by analogy to section 4(g)(2). See 8 FCC Rcd. at 4159, n.21.

¹³ See 5 C.F.R. § 304-1.2(c)(3) which makes clear that the term meeting pursuant to section 1353 "... does not include a meeting

or other event required to carry out an agency's statutory or regulatory functions" 5 C.F.R. § 304-1.2(c)(3).

¹⁴ Comments of AMSC at 1; comments of NASB at 1. NASB urged the Commission "to make an unequivocal finding that there is no conflict of interest in an HF broadcaster providing funds to support international coordination efforts by the agency's staff, including payments for staff salaries and expenses in attending meetings, the cost of renting rooms, etc." *Id.*

¹⁵ *Id.* at 3.

¹⁶ Comments of NASB at 2.

¹⁷ In addition, gifts that do not enure to the personal benefit of employees and that are permitted under section 4(g)(3) might include, for example, donation of the use of facilities for FCC-sponsored conferences and other support services for such events, including teleconferencing facilities.

¹⁸ Comments of USTA at 3.

¹⁹ As we indicated in our *NPRM*, this conflict of interest analysis is not required unless gifts are offered by "prohibited sources," as defined in OGE rules.

gift might accrue to individual employees. If the gift does benefit an individual employee, agency ethics officials must also go on to consider whether that employee is responsible for matters affecting the potential donor that are currently pending before the agency and the significance of the employee's role in any such matter. See 8 FCC Rcd. at 4159, para. 33.

b. Nature/Sensitivity of Pending Matters Affecting Donor and Value/Frequency of Donor's Gifts

17. Whether or not the proposed gift benefits employees personally, the regulations we are adopting here direct agency officials making conflicts determinations to consider the nature and sensitivity of any matters pending at the Commission affecting the prohibited source and the timing of the gift. Although our *NPRM* indicated that we would not reject a gift on conflicts or appearances grounds merely because the donor has matters pending at the agency, the issue of sensitivity is heightened if a matter of substantial significance affecting the donor is currently pending before the Commission's Sunshine agenda at the time the gift is offered (or at the time the gift would be accepted.) Other factors that will be considered under the new rules are the value of the gift and the frequency of gifts made by a particular donor. We have decided, however, not to set any specific monetary or frequency limits. Commenters made no such recommendations and we believe this matter should be considered on a case-by-case basis.

c. Donor's Reason for Gift/Verification Gift is Unconditional

18. In making conflict of interest determinations, the regulations also require ethics officials to consider the donor's reason for the proposed gift. As explained in our *NPRM*, if the donor's reason for the gift is a benefit that would accrue to all regulatees impartially (e.g., the donor expects to benefit from increased efficiency at the Commission) or is to take advantage of related tax benefits, any "appearance" concerns associated with the gift are likely to be diminished. For purposes of considering this factor, the rules direct donors to supply a written statement specifying the reason for the intended gift and how they expect to benefit. Donors must also sign a verification that the proposed gift is not contingent on any promise or expectation that the Commission's receipt of the intended gift will benefit the donor in any regulatory matter.

3. Public Disclosure and Reporting Requirements

19. Section 4(g)(3) does not impose a reporting requirement upon the Commission, but, because our gift acceptance authority is coupled with explicit conflict of interest limitations, we believe it is important to maintain a detailed record of all gifts. As discussed in section IV of our *NPRM*, some gift and bequest statutes, such as the Department of the Treasury's, expressly impose a requirement to make information regarding gifts to the Department publicly available. Treasury fulfills this obligation simply by placing a copy of the trust fund report in its library. 31 U.S.C. § 321(d). Similarly, the regulations we are adopting

direct the Commission's Security Operations Office to maintain a publicly accessible record of all gifts accepted pursuant to section 4(g)(3).²⁰ The rules also require a semi-annual report to Congress listing the gift, donor and market value of gifts accepted from all sources pursuant to section 4(g)(3) authority.

20. Finally, in the *NPRM* we asked whether we should have a period of public notice before accepting gifts that have a high monetary value. USTA took the position that such a requirement is unnecessary because it is "unlikely that such comments would provide any additional information which would be helpful to the Commission in assessing potential conflicts of interest."²¹ We generally agree. Nevertheless, we will leave it to the discretion of the DAEO whether to delay acceptance of any gift pending a period of public notice.

IV. CONCLUSION

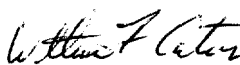
21. We believe that, as mandated by section 4(g)(3), the regulations adopted here will preclude real and apparent conflicts of interest when the Commission exercises its new gift acceptance authority. In order to ensure the integrity of our process, we have, as discussed above, adopted numerous safeguards which will require careful consideration of conflicts of interest issues by impartial agency ethics officials. Our rules will also ensure that our actions implementing this authority are exposed to the fullest possible public and congressional scrutiny.

V. PROCEDURAL MATTERS

22. Accordingly, IT IS ORDERED That the Subpart R, Part 1 of the Commission's rules IS ADOPTED as set forth in the Appendix attached hereto, effective 30 days after publication in the Federal Register. IT IS FURTHER ORDERED, that this proceeding IS TERMINATED.

23. The action taken herein is taken pursuant to sections 4(g)(3), 4(i), and 303(r) of the Communications Act, 5 U.S.C. §§ 154(g)(3), (i), 303(r). For further information on this proceeding, contact Sharon B. Kelley, Office of the General Counsel, Administrative Law Division, (202)632-6990.

FEDERAL COMMUNICATIONS COMMISSION


William F. Caton
Acting Secretary

²⁰ The record will contain the following information: 1) the identity of the source of the gift; 2) a description of the gift; 3) the market value of the gift; and 4) the date the gift is accepted. In addition, when gifts are from prohibited sources, the record

will include documentation concerning the donor's reason for the gift and a signed statement of verification from the donor that the gift is unconditional.

²¹ Comments of USTA at 4.2

APPENDIX

Part 1 of Title 47 of the Code of Federal Regulations is amended to read as follows:

PART 1 Practice and Procedure

1. The authority citation for Part 1 continues to read as follows:

Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303; Implement, 5 U.S.C. 552 and 21 U.S.C. 853a, unless otherwise noted.

2. A new subpart R, consisting of Sections 1.3000 through 1.3004 is added to Part 1 to read as follows:

Subpart R - Implementation of Section 4(g)(3) of the Communications Act: Procedures Governing Acceptance of Unconditional Gifts, Donations and Bequests

Sec.

1.3000 Purpose and Scope.

1.3001 Definitions.

1.3002 Structural rules and prohibitions.

1.3003 Mandatory factors for evaluating conflicts of interest.

1.3004 Public disclosure and reporting requirements.

1.3000 Purpose and Scope.

The purpose of this subpart is to implement the Telecommunications Authorization Act of 1992 which amended the Communications Act by creating section 4(g)(3), 47 U.S.C. § 154(g)(3). The provisions of this subpart shall apply to gifts, donations and bequests made to the Commission itself. Travel reimbursement for attendance at, or participation in, government-sponsored meetings or events required to carry out the Commission's statutory or regulatory functions may also be accepted under this subpart. The acceptance of gifts by Commission employees, most notably gifts of food, drink and entertainment, is governed by the government-wide standards of employee conduct established at 5 C.F.R. Part 2635. Travel, subsistence and related expenses for non-government-sponsored meetings or events will continue to be accepted pursuant to the Government Employees Training Act, 41 U.S.C. § 4111 or 31 U.S.C. § 1353, and its General Services Administration's implementing regulations, 41 C.F.R. § 304-1.8, as applicable.

§ 1.3001 Definitions.

(a) For purposes of this subpart:

(1) The term "agency" means the Federal Communications Commission;

(2) The term "gift" means any unconditional gift, donation or bequest of real, personal and other property (including voluntary and uncompensated services as authorized under 5 U.S.C. § 3109);

(3) The terms "agency ethics official," "designated agency ethics official," "employee," "market value," "person," and "prohibited source," have the same meaning as found in 5 C.F.R. §§ 2635.102, 2635.203.

§ 1.3002 Structural rules and prohibitions.

(a) General prohibitions. An employee shall not:

(1) Directly or indirectly, solicit or coerce the offering of a gift, donation or bequest to the Commission from a regulated entity or other prohibited source; or

(2) Accept gifts of cash pursuant to this subpart.

(b) Referral of offers to designated agency ethics official. Any person who seeks to offer any gift to the Commission under the provisions of this subpart shall make such offer to the Commission's Designated Agency Ethics Official. In addition, any Commission employee who is contacted by a potential donor or the representative thereof for the purpose of discussing the possibility of making a gift, donation or bequest to the Commission shall immediately refer such person or persons to the Commission's Designated Agency Ethics Official. The Designated Agency Ethics Official shall, in consultation with other agency ethics officials, make a determination concerning whether acceptance of such offers would create a conflict of interest or the appearance of a conflict of interest. The Designated Agency Ethics Official may also advise potential donors and their representatives of the types of equipment, property or services that may be of use to the Commission and the procedures for effectuating gifts set forth in this subpart. The Commission may, in its discretion, afford public notice before accepting any gift under authority of this subpart.

§ 1.3003 Factors for evaluating conflicts of interest.

No gift shall be accepted under this subpart unless a determination is made that its acceptance would not create a conflict of interest or the appearance of a conflict of interest. In making conflict of interest determinations, the Designated Agency Ethics Official shall consider the following factors:

(a) Whether the benefits of the intended gift will accrue to an individual employee and, if so --

(1) Whether the employee is responsible for matters affecting the potential donor that are currently before the agency; and

(2) The significance of the employee's role in any such matters;

(b) The nature and sensitivity of any matters pending at the Commission affecting the intended donor;

(c) The timing of the intended gift;

(d) The market value of the intended gift;

(e) The frequency of other gifts made by the same donor; and

(f) The reason underlying the intended gift given in a written statement from the proposed donor.

§ 1.3004 Public disclosure and reporting requirements.

(a) Public disclosure of gifts accepted from prohibited sources. The Commission's Security Operations Office, Office of the Managing Director, shall maintain a written record of gifts accepted from prohibited sources by the Commission pursuant to section 4(g)(3) authority, which will include:

(1) The identity of the prohibited source;

(2) A description of the gift;

(3) The market value of the gift;

(4) Documentation concerning the prohibited source's reason for the gift as required in section 1.3003(f);

(5) A signed statement of verification from the prohibited source that the gift is unconditional and is not contingent on any promise or expectation that the Commission's receipt of the gift will benefit the proposed donor in any regulatory matter; and

(6) The date the gift is accepted by the Commission.

(b) **Reporting Requirements** for all gifts. The Commission shall file a semi-annual report to Congress listing the gift, donor and value of all gifts accepted from any donor under this subpart.